

**Town of Walpole  
Commonwealth of Massachusetts**

**Planning Board**

John Conroy, Chair  
Sarah Khatib, Vice Chair  
Philip Czachorowski, Clerk  
Catherine Turco-Abate  
John O'Leary



**Town Hall  
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**LEGAL NOTICE  
PUBLIC HEARING**

Pursuant to the provisions of Section 5 of Chapter 40A of the General Laws and the Walpole Zoning Bylaw, the Walpole Planning Board will conduct a public hearing on Wednesday, October 14, 2020 and Thursday, October 15, 2020, if necessary, at 7:00 p.m. in the Tennis Court at Walpole High School located at 275 Common Street, Walpole, MA on four (4) articles for proposed amendments or changes to the Walpole Zoning Bylaw, which is scheduled on the 2020 Fall Town Meeting Warrant. These articles are as follows:

**ARTICLE 13:** To see if the Town will vote to amend the Walpole Zoning Bylaws to include an inclusionary zoning bylaw to read as follows;

**Section 5-I. Inclusionary Zoning**

1. **Purpose.**

The purpose of this bylaw is to produce high-quality dwelling units affordable for qualified households, to facilitate the provision of more diverse housing choices in Walpole, to serve changing demographic and housing needs, to promote geographic distribution of Affordable Housing Units throughout the Town and particularly in areas well served by transit, infrastructure, employment opportunities, medical care, retail, and social services, to prevent the displacement of low- or moderate-income residents of Walpole, and to support the Town in implementing its Housing Production Plan's goals and strategies.

2. **Definitions.**

As used in this bylaw, in addition to the words and terms defined in Section 14, the following terms shall have the meanings indicated:

- A. **ACCESSIBLE.** As applied to the design, construction, or alteration of a dwelling unit, accessible housing is a dwelling unit that can be approached, entered, and used by individuals with mobility impairments.
- B. **AFFIRMATIVE FAIR HOUSING MARKETING AND RESIDENT SELECTION PLAN.**

Affirmative Fair Housing requirements apply to the full spectrum of activities that culminate with occupancy, including but not limited to means and methods of outreach and marketing through to the qualification and selection of residents. All AFHMP plans must, at a minimum, meet the standards set forth by the Department of Housing and Community Development (DHCD), as may be amended from time to time. In the case of M.G.L. c.40B projects and other projects subsidized by a Subsidizing Agency, the AFHMP must be approved by the Subsidizing Agency.

- C. **AFFORDABLE HOUSING TRUST FUND.** A fund account established and operated by the Town for the exclusive purpose of creating or preserving affordable housing opportunities in the Town of Walpole.
- D. **AFFORDABLE HOUSING UNIT.** A dwelling unit eligible for inclusion on the Subsidized Housing Inventory as provided in 760 CMR 56.02, and offered in accordance with an accepted Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP).
- E. **EXTREMELY LOW, LOW- OR MODERATE-INCOME HOUSEHOLD.** A household with income at or below 30%, 50%, or 80%, respectively, of area median income (AMI), adjusted for household size, for the metropolitan or non-metropolitan area that includes the Town of Walpole as determined annually by the U. S. Department of Housing and Urban Development (HUD).
- F. **LOCAL INITIATIVE PROGRAM.** A program administered by the Massachusetts Department of Housing and Community Development (DHCD) pursuant to 760 CMR 56.00 et seq. and the Local Initiative Program Guidelines to develop and implement local housing initiatives that produce low- and moderate-income housing.
- G. **QUALIFIED PURCHASER.** A household that meets eligibility requirements and purchases and occupies an Affordable Housing Unit as their principal residence.
- H. **QUALIFIED RENTER.** A household that meets eligibility requirements and rents and occupies an Affordable Housing Unit as their principal residence.
- I. **SUBSIDIZED HOUSING INVENTORY (SHI).** The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 56.02.

3. **Applicability.**

- A. This bylaw applies to (1) any development resulting in the net creation of six (6) or more total dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space, including mixed use developments/redevelopments, but excluding Age Qualified Villages permitted under Section 10-C of this Zoning Bylaw; (2) any division, combination, or re-division of land for development of six or more dwelling units. Development may not be segmented or phased over a ten (10) year time period to avoid compliance with this bylaw.
- B. To the extent that any provision of this bylaw conflicts with or imposes requirements in addition to those imposed by other sections of the Zoning Bylaw regulating or mandating the creation of Affordable Housing Units, unless otherwise exempted in this Section 5-I, the terms and requirements of this bylaw shall control.

4. Special Permit Required.

- A. Development of land subject to this bylaw shall require a Special Permit from the Zoning Board of Appeals providing for compliance with the bylaw requirements of this Section.
- B. The Zoning Board of Appeals may grant a Special Permit for developments which meet the requirements herein, and are in harmony with the purposes and intent of this bylaw, and shall be subject to any general rules prescribed herein, and to any appropriate conditions, safeguards, and limitations.

5. Mandatory Provision of Affordable Housing Units.

- A. In any development subject to this bylaw, Affordable Housing Units, shall be provided in accordance with the following schedule:

Size of Residential Development	Percent of Affordable Housing Units Required for Residential Developments
6-12 Dwelling Units	10%
13-20 Dwelling Units	12.5%
More than 20 Dwelling Units	15%

Note: Where the calculation of Affordable Housing Units results in a fractional unit greater than or equal to one half (.5), the fraction shall be rounded up to the next whole unit. Where the calculation results in a fractional unit less than one-half (.5), a pro rata payment for the portion of the unit not provided shall be required. The pro rata payments for partial unit requirements shall be determined in accordance with the calculation for the in-lieu of fee for a whole unit described in Subsection 7.D of this Bylaw.

- B. The Affordable Housing Units authorized under the provisions of this Bylaw shall be Local Action Units (LAU) developed under the Local Initiative Program (LIP) in compliance with the requirements for the same as specified by the Department of Housing and Community Development (DHCD), or successor, or Affordable Housing Units developed under additional programs adopted by the Commonwealth of Massachusetts or its agencies. Nothing in this section shall preclude a developer from providing more Affordable Housing Units than required under the provisions of this bylaw.

6. Special Provisions for Affordable Housing Units.

- A. With the exception of Affordable Housing Units located in the B and CBD districts (for which the density of dwelling units shall be determined in accordance with Section 5.B-1.3.g), Affordable Housing Units shall require only twenty-five (25) percent of the minimum lot size per unit of the underlying base zoning district on sites served by public sewer. For sites not served by public sewer, the minimum lot size requirement per Affordable Housing Unit may be reduced by fifty (50) percent of that required by the base zoning district.

The total lot area required in a project/development and minimum lot size per dwelling unit (Affordable Housing Units and market rate dwelling units) shall be determined in accordance with the following formulas:

Step 1:

$$\left( \begin{array}{c} \text{Min. Lot Requirement (Market Rate Units)} \\ + \text{Min. Lot Requirement (Affordable Units)} \\ \hline \text{Total Lot Area Required} \end{array} \right)$$

Step 2:

$$\begin{array}{c} \text{Total Lot Area Required} \\ \div \text{Total \# of Units} \\ \hline \text{Minimum Lot Size} \\ \text{(Per Unit)} \end{array}$$

- B. In order to encourage more flexible and creative development styles, the Zoning Board of Appeals, in its discretion, may reduce the following requirements: frontage; usable open space; buffers; and front, side and rear setbacks within a development [provided that side and rear yard setbacks adjacent to lots serving existing single-family homes are provided in accordance with Section 6-B.1 – Table of Dimensional Requirements] if such a waiver promotes better site design. Better site design can include avoidance or conservation of sensitive ecological or environmental features; preservation of historic landscapes, objects, or buildings; promotion of innovative residential neighborhood design principles; utilization of Low Impact Development stormwater management techniques; use of superior architectural materials and designs; and/or any combination thereof.
- C. Parking requirements for Affordable Housing Units shall be one (1) parking space per dwelling unit. The Zoning Board of Appeals, may at its discretion, reduce the parking requirement to 0.5 spaces per Affordable Housing Unit in age-restricted developments (with the exception of Age Qualified Villages permitted under Section 10-C of this Zoning Bylaw). Assisted living, memory care, nursing homes, group homes, and other congregate living facilities with qualified Affordable Housing Units shall provide parking in accordance with the following: one (1) parking space per five (5) beds, and one (1) parking space per employee at peak shift.

In addition, the Zoning Board of Appeals, may at its discretion, waive up to twenty (20) percent of the parking spaces required under Section 8.3 of this Bylaw if a development is located within two (2) miles of an MBTA commuter rail station and one or more of the following is provided by the applicant and/or owner(s) of the development: (i) subsidized T-Passes for residents, (ii) provision of on-site Car/Ride Share facilities, (iii) pedestrian and Complete Streets improvements providing meaningful connections from the project site to services and amenities, (iv) and/or a shuttle is provided at the expense of the property owner(s) serving residents of the development, and providing transportation to and from the Walpole MBTA commuter rail station within ten (10) minutes of scheduled train arrivals and departures for a period of at least ten (10) years from the date of the issuance of the first Certificate of Occupancy within a development. In order to obtain a waiver for any market rate parking within a development, the applicant must submit a Transportation Demand Management Plan affirmatively indicating the project can be served by reduced parking.

Sample Parking Schedule:

Size of Development	Unit Composition (MR = market rate, AU = affordable unit)	Base Parking Requirement (Section 8.3 - Parking)	Total Parking Required (Adjusted for AUs)	Total Parking Required (w/ max MBTA Access Waiver)
12 units	11 MR, 1 AU	24 spaces	23 spaces	19 spaces
20 units	17 MR, 3 AU	40 spaces	37 spaces	32 spaces
100 units	85 MR, 15 AU	200 spaces	185 spaces	160 spaces

**Note:** Nothing in this bylaw shall prevent an applicant from proposing additional parking beyond minimum requirements. However, in order to minimize impervious surfaces and fiscal impacts to the Town from increased stormwater management costs, a Special Permit shall be required for parking provided in excess of 2.5 parking spaces per unit.

7. Methods of Providing Affordable Housing Units.

The Zoning Board of Appeals, in its discretion, may approve one or more of the following methods, or any combination thereof, for the provision of Affordable Housing Units by a development that is subject to this bylaw:

- A. Affordable Housing Units, to the greatest extent possible, shall be constructed or rehabilitated on the locus of the development site.
- B. The Zoning Board of Appeals, in its discretion, may allow an applicant to develop, construct, purchase, rehabilitate, or otherwise provide affordable units equivalent to those units provided on the primary development site, in an off-site location in the Town of Walpole, provided that the Walpole Housing Partnership, or its successor, has recommended favorably by a majority vote to accept the proposed off-site units. All requirements of this bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. In addition, the location of the off-site units shall be approved by the Zoning Board of Appeals as an integral element of the development review and approval process.
- C. A donation of land may be made in lieu of providing Affordable Housing Units. An applicant may offer, and the Zoning Board of Appeals may accept, subject to approval of the Board of Selectmen, donations of land in fee simple, on- or off-site, that the Zoning Board of Appeals determines are suitable for the construction of Affordable Housing Units. The value of donated land shall be equal to or greater than the full fair market value of the total required number of affordable units, or fraction thereof, were they not subject to the provisions of this Section, as determined by three (3) independent appraisals. The Zoning Board of Appeals may require, prior to accepting land as satisfaction of the requirements of this bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.
- D. An equivalent fee in lieu of whole units may be made, but is strongly discouraged. The Zoning

Board of Appeals, in its discretion, may allow an applicant to make a cash payment to the Town for each affordable unit required. The cash payment, or equivalent value in land or buildings, shall be determined by the Zoning Board of Appeals and shall be the amount equal to the product of (1) the required number of Affordable Housing Units, multiplied by (2) the full fair market value of the unit as determined by a minimum of three independent appraisals, paid for by the applicant. Any fees collected in lieu for affordable housing may only be used for the provision of future affordable housing and shall remain separate from other Town funds, including the General Fund, and shall be paid prior to the issuance of any Certificates of Occupancy for the development phase, or total development, as applicable. At such time that an Affordable Housing Trust Fund may come to exist, funds shall be deposited into the Affordable Housing Trust Fund and shall become the property of the Affordable Housing Trust Fund.

- E. No Building Permit shall be issued by the Building Commissioner until the developer has demonstrated that all of the applicable requirements of Section 5 have been met.

8. Administration; Location of Affordable Units; Selection of Purchasers or Renters.

A. The Zoning Board of Appeals shall be charged with administering this bylaw and shall promulgate rules and regulations to implement its provisions. For all developments requiring a Special Permit for Affordable Housing, prior to appearing before the Zoning Board of Appeals, the applicant shall be required to meet and receive a recommendation from the Walpole Housing Partnership, or successor, regarding the types of units, locations, design, quality, size, bedroom count, and/or tenure to determine the suitability of the units and their conformance with local housing needs and objectives.

- B. Affordable Housing Units shall be dispersed throughout the building(s) in a development and shall be comparable to market dwelling units in terms of location, finishes, quality, character, size, bedroom distribution, and external appearance.
- C. The marketing and lottery selection of qualified recipients shall be carried out under an Affirmative Fair Housing Marketing and Resident Selection Plan approved by DHCD and accepted by the Zoning Board of Appeals, and shall comply with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program.
- D. Developers may sell affordable units to the Town of Walpole, the Walpole Housing Authority, Affordable Housing Trust Fund, should one be created, or to any nonprofit housing development organization serving Walpole as approved by the Zoning Board of Appeals in order that such entity may carry out the steps needed to market the Affordable Housing Units and manage the choice of buyers.

9. Timing of construction.

- A. Timing of construction: The construction of Affordable Housing Units shall be commensurate with the construction of market rate units. Should projects be constructed in phases, each phase shall contain the same proportion of Affordable Housing Units to market rate units as the overall development.
- B. No Certificate of Occupancy shall be issued for any market-rate units in a development subject to this article unless the Affordable Housing Units are developed concurrently and not until all deed restrictions, agreements with the Town and/or other documents necessary to ensure

compliance by the applicant (and any purchasers of the Affordable Housing Units) with the requirements of this By-law have been executed and recorded.

10. Preservation of affordability; restrictions on resale.

- A. An Affordable Housing Unit created in accordance with this bylaw shall be subject to an affordable housing restriction or regulatory agreement that contains limitations on use, resale and rents. The affordable housing restriction or regulatory agreement shall meet the requirements for inclusion on the Subsidized Housing Inventory (SHI). Deed restrictions shall be in force for the maximum period allowed by law, unless otherwise authorized by the Zoning Board of Appeals due to the applicant having demonstrated such a waiver is of substantial public benefit, but in all cases shall be at least thirty-five (35) years.
- B. The affordable housing restriction or regulatory agreement shall be enforceable under the provisions of MGL c. 184.
- C. The Zoning Board of Appeals shall require that the applicant comply with the mandatory provision of Affordable Housing Units and accompanying restrictions on affordability, including the execution of the affordable housing restriction or regulatory agreement.
- D. All documents necessary to ensure compliance with this bylaw shall be subject to the review and approval of the Zoning Board of Appeals and, as applicable, Town Counsel. Such documents shall be executed prior to and as a condition of the issuance of any Certificate of Occupancy.

11. Severability; conflict with other laws.

- A. To the extent that a conflict exists between this bylaw and other bylaws of the Town of Walpole, the more restrictive provisions shall apply.
- B. If a court of competent jurisdiction holds any provision of this bylaw invalid, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections of this bylaw shall not affect the validity of the remaining sections or parts of sections or the other bylaws of the Town of Walpole.

Or do or act anything in relation thereto. (Petition of the Select Board)

**ARTICLE: 17:** To see if the town will vote to amend the Zoning By-law to allow outdoor dining and outdoor entertainment by-right in the Business, Central Business District, Highway Business District and Limited Manufacturing Business District and to require limited or full site plan review as applicable.

	RA	RB	GR	R	PSRC	B	CBD	HB	LM	IND	PARKING CODE
<b>4. BUSINESS:</b>											
q. Any of the following uses if located in business district which has an overall length of less than one thousand (1,000) feet, measured along the street on which the use has its principal access:											
i. outdoor dining area accessory to a restaurant or hotel on the same premises <sup>1</sup> ;	X	X	X	X	X	SPZ A	SPZ A	SPZ A	SPZ A	X	6
iv. the regular furnishing of live entertainment at a restaurant or similar place	X	X	X	X	X	SPZ A	SPZ A	SPZ A	SPZ A	X	6

Footnotes: 1. Outdoor dining subject to Limited Site Plan Review or Full Site Plan Review, as applicable

Or take any action in relation thereto. (Petition of the Select Board)

**ARTICLE 19:** To see if the Town will vote to approve adding the subject property with Tax ID 47-71 and located at 455 South Street and further depicted on Exhibit A to the town's solar overlay district or act anything in relation thereto. Furthermore, we authorize the Board of Selectmen to enter into one or more PILOT agreements for payments in lieu of taxes pursuant to G.L. C59, Sec.38H(b), or any other enabling authority, for the owner of a solar photovoltaic facility to be installed on a privately owner parcel of land in the town of Walpole with Tax ID 41-71, or do or act anything in relation thereto (Petition of Madelene Senatore)



**ARTICLE 20:** To see if the Town will amend the Walpole Zoning By-law as follows: Amending Section 4 Establishments of Districts to add Stadium Event Parking (SEP) **(new text in bold):**

Symbol Title

Overlay Districts

SEP Stadium Event Parking Overlay District

C. Overlay Districts.

(4) SEP – Stadium Event Parking Overlay District: The purpose of this district is to allow the safe and secure operation of private parking lots during events at Gillette Stadium, or its successor.

And to create a new Section 5-I. Stadium Event Parking Overlay with the following requirements **(new text in bold):**

Section 5-I. Stadium Event Parking Overlay

**1. Purpose and Provisions**

- a. **The purpose of the Stadium Event Parking Overlay District is to protect the public health, safety, and general welfare of the Town of Walpole and to allow the safe and secure operation of private parking lots as an accessory use in conjunction with events at Gillette Stadium, or its successor.**

**2. Establishment and Delineation of the Stadium Event Parking Overlay District**

- a. **The Stadium Event Parking District is hereby established as an overlay district superimposed on the underlying zoning districts. It includes all parcels within the Town of Walpole as delineated on a map entitled “Stadium Event Parking Overlay District, Town of Walpole, MA” which shows a ½ mile radius from the midline of Water Street at the Town of Walpole and Town of Foxborough boundary.**
- b. **Any parcel within the radius is considered within the overlay district. Any parcel partially within the radius will also be considered within the overlay district.**

**3. Stadium Event Parking Defined**

Stadium event parking shall be defined as the temporary parking of automobiles in conjunction with events taking place at Gillette Stadium, or its successor.

**4. Development Standards**

- a. **No vehicle shall block or overhang the public way.**
- b. **There shall be safe ingress and egress from the property.**
- c. **The area of each parking space must be at least 166 square feet.**
- d. **Stadium parking capacity shall be based on a minimum of 166 square feet per vehicle.**
- e. **Town departments may recommend fewer vehicles in an advisory report to the Building**

**Commissioner in order to preserve safety, site circulation, conservation and community impact.**

## **5. Approval**

An application for Stadium Event Parking shall follow the procedures outlined in Limited Site Plan Review.

The Building Commissioner shall forward their decision to the Board of Selectmen for the review of an application for a parking lot license on the limited site plan review including a recommendation on the appropriate number of vehicles for a given site and any conditions necessary to facilitate the safe and secure operation of a private parking lot. The Building Commissioner shall also include in their decision comments from other town departments.

## **6. Invalidity Clause: The invalidity of any provision of this Section shall not invalidate all or any other provision of this Section.**

And to amend Section 13.6 Limited Site Plan Review subsection A. Applicability to add **(new text in bold):**

(3) All applications for Stadium Event parking in the SEP overlay are subject to limited site plan review.

Or take any action in relation thereto.

## **8. Establishment and Delineation of the Stadium Event Parking Overlay District**

- a. The Stadium Event Parking District is hereby established as an overlay district superimposed on the underlying zoning districts. It includes all parcels within the Town of Walpole as delineated on a map entitled “Stadium Event Parking Overlay District, Town of Walpole, MA” which shows a ½ mile radius from the midline of Water Street at the Town of Walpole and Town of Foxborough boundary.**
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## **12. Invalidity Clause: The invalidity of any provision of this Section shall not invalidate all or any other provision of this Section.**

And to amend Section 13.6 Limited Site Plan Review subsection A. Applicability to add **(new text in bold)**:

(3) All applications for Stadium Event parking in the SEP overlay are subject to limited site plan review.

Or take any action in relation thereto. (Petition  
of Cynthia Enos-Hoag)

Chair John Conroy, Planning Board

**Walpole Advocate 9/30/2020 and 10/7/2020**